

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

RICHARD A. ADAMS,	)	
	)	
Plaintiff,	)	
	)	
v.	)	CIVIL ACTION FILE NO.
	)	1:05-CV-3308-TWT
IBM CORP.	)	
	)	
Defendant.	)	

MOTION TO QUASH

COMES NOW Defendant IBM Corporation and hereby files this motion to quash the Subpoena served by Plaintiff (*pro se*) on Defendant (attached as exhibit "A") for violating Fed. R. Civ. P. 45(a)(1)(C). Plaintiff mailed the Subpoena to Defendant on June 15, 2006. An exhibit containing 10 written questions was attached to the Subpoena. Fed. R. Civ. P. 45(a)(1)(C) provides that every subpoena shall "command each person to whom it is directed to attend and give testimony or to produce and permit inspection of designated books, documents or tangible things . . ., or to permit inspection of premises[.]" Plaintiff's subpoena does not seek testimony nor does it seek production and/or inspection of documents or premises. Rather, it asks Defendant to answer written questions such as "[w]ho and at what date did any one at the IBM

Employee Service Center tell me that I had to elect a distribution date in order to receive interest on the money in my pension account.” Because Plaintiff’s questions do not comply with Fed. R. Civ. P. 45(a)(1)(C), Plaintiff’s subpoena should be quashed.

In addition, discovery closed in this case on June 6, 2006. Plaintiff’s June 15, 2006 subpoena is untimely and should be quashed on this ground alone. Further, the information sought in Plaintiff’s questions is irrelevant to his claims. To the extent Plaintiff’s written questions may be construed as untimely interrogatories, Defendant will serve appropriate timely objections regarding the relevance of the questions.

Accordingly, because Plaintiff’s subpoena violates Fed. R. Civ. P. 45(a)(1)(C) (and is untimely), Defendant prays that this motion be granted.

#### GOOD FAITH CERTIFICATION

Pursuant to Local Rules 26.1 and 37.1(A)(1) and Fed. R. Civ. P. 37(a)(2)(A)(B), I certify that I have conferred with or attempted to confer with Plaintiff (*pro se*) in a good faith attempt to resolve the issues raised in this discovery motion and have been unable to do so.

Respectfully submitted this 29th day of June, 2006.

s/ Owen T. Hill, Esq.  
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CERTIFICATION

I hereby certify that this document has been prepared in Book  
Antiqua font, 13 point, in compliance with LR 5.1C of this Court.

s/Owen T. Hill, Esq.

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CERTIFICATE OF SERVICE

I hereby certify that on June 29, 2006 I electronically filed the MOTION TO QUASH with the Clerk of Court using the CM/ECF system. I also hereby certify that I have mailed the foregoing document via United States Postal Service Certified Mail Return Receipt Requested to the following non-CM/ECF *pro se* plaintiff.

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s/Owen T. Hill

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